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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,123

10/13/2005

Patrick Achenbach

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1493

8791 7590 02/26/2007  
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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT

PAPER NUMBER

3749

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/529,123

Applicant(s)

ACHENBACH, PATRICK

Examiner

Stephen Gravini

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-28 is/are pending in the application.
- 4a) Of the above claim(s) 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 13-22, drawn to an apparatus, classified in class 34, subclass 90.
- II. Claims 23-28, drawn to a method, classified in class 34, subclass 468.

The inventions are distinct, each from the other because of the following reasons:

Inventions of group I and group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus or by hand because the independently claimed group II steps of controlling an operational parameter and generating an air flow to counteract a deposition are not limitations found in the independently claimed group I invention. The independently claimed group I invention recites at least one circuit element but not the independently claimed group II step of controlling and air flow generation but not the counteract step such that the process could be practiced by hand or another materially different apparatus.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Newly submitted claims 13-28 are directed to an invention that is independent or distinct from the invention originally claimed for the reasons set forth above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-28 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Roethel (US 1,722,825). The claimed invention is reasonably and broadly construed in light of the accompanying specification as being disclosed by Roethel as comprising:

a switch cabinet **5, 6, 7** for a wind turbine **28**;

at least one circuit element (at page 3 lines 4-6 wherein the disclosed motor, switch, and wiring expressly teach at least one circuit element as claimed) coupled to the switch cabinet; and

a drying arrangement to prevent water deposition (at page 2 lines 11-27 wherein the disclosed rain barrier expressly teaches a drying arrangement to prevent water deposition) onto the at least one circuit element, the drying arrangement including an air

flow generating device to generate an air flow in a region of the at least one circuit element. The claims are also construed as being disclosed by Roethel including at least one heating device **29** to heat an air in the region of the at least one circuit element and a cooling element **28** to separate water from air flowing by, the cooling element being spaced apart from the at least one circuit element; and a drain element to drain the water deposition out of the switch cabinet at page 2 line 15 and the air flow generating device to circulate air within the switch cabinet and to move air past the at least one circuit element and the cooling element at page 2 line 15.

***Claim Rejections - 35 USC § 103***

Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel. Roethel discloses the claimed invention as rejected above, except for the claimed Peltier element. It would have been an obvious matter of design choice to one skilled in the art to provide a Peltier element to the heating and/or cooling device since the claimed element would perform regardless of the type of heating and/or cooling element recited.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel in view of Streed (US 3,332,620). Roethel discloses the claimed invention as rejected above, except for the claimed humidity circuit element control device. Streed, another wind apparatus, discloses a humidity circuit element control device at column 3 line 10 through column 4 line 66. It would have been obvious to one skilled in the art to provide a humidity circuit element control device for the purpose of efficient moisture free operation of electrical equipment in a switching environment.

***Response to Arguments***

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG  
February 20, 2007

*Stephen Gharin*